

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

OCT 28 2008

JOHN F. CORCORAN, CLERK
BY: 
DEPUTY CLERK

MOHAMMED SERDAH,
Petitioner,

Civil Action No. 7:08-cv-00561

v.

MEMORANDUM OPINION

ROANOKE COUNTY DEPT. OF
SOCIAL SERVICES,
Respondent.

By: Samuel G. Wilson
United States District Judge

Petitioner Mohammed Serdah, proceeding pro se, filed this petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Upon review of the petition, the court finds that Serdah is not in custody and is not challenging a state court judgment and, therefore, his claims cannot be addressed under § 2254. Accordingly, the court dismisses this action.

In his petition, Serdah indicates that he is challenging the Department of Social Services' decision to place his name on the Central Registry for Child Protective Services for a period of seven years. Section 22554(a) limits the availability of a federal remedy to state prisoners who are "in custody pursuant to the judgment of a State court." The "in custody" requirement does not necessarily denote actual physical detention in jail or prison, rather, the term is liberally construed as "restraints on a man's liberty, restraints, not shared by the public generally." Jones v. Cunningham, 371 U.S. 236, 240 (1963); see also Peyton v. Rowe, 391 U.S. 54, 59 (1968). However, a petitioner is not "in custody" when no custodial sentence was imposed and there is no likelihood of detention. See Wright v. Bailey, 544 F.2d 737, 739 (4th Cir. 1976). In this case, Serdah is not "in custody" because no custodial sentence was imposed and there is no likelihood of detention; and, he is not challenging a state court judgment, rather he is challenging a decision of a state Administrative Agency. Therefore, Serdah's claims cannot be addressed under § 2254, and his petition is dismissed.

The Clerk is directed to send a certified copy of this memorandum opinion and the accompanying order to petitioner.

ENTER: This 28th day of October, 2008.


United States District Judge